



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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OCTOBER 6, 2014

Regular meeting of the City Council held on Monday, OCTOBER 6, 2014 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Tunnera, Clancy, Irish, and Landers. Meeting adjourned at 8:38 PM.

ORDERED: That the minutes of the City Council meeting SEPTEMBER 22, 2014, **FILE**; adopted.

ORDERED: That the **PUBLIC HEARING** On the Petition of NGrid and Verizon New England Inc. to install new jointly owned P#9 Simarano Dr. This pole is required to provide service to existing building at 2 Results Way. A three phase overhead primary line will be installed from P#9 to private property P9-70, Order No. 14-1005964, hearing recessed at 8:03 PM.

Councilors Present: Pope, Ossing, Robey, Oram, Delano, Page, Elder, Tunnera, Irish, Clancy & Landers.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Executive Office of Public Safety and Security grant and a U.S. Department of Justice grant in the amounts of \$15,000.00 and \$13,953.00 awarded to the Police Department to help reimburse the city for traffic enforcement patrols and to be used to fund overtime, recertification and supply costs for the Rape Aggression Defense Systems (RAD) program respectively; adopted.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Department of Public Health, Bureau of Substance Abuse Service grant in the amount of \$15,000.00 to be used in part by the Youth Commission to fund a City wide initiative aimed at combatting substance abuse among the City's youth; adopted.

ORDERED: It is moved, in conformance with the provisions of section 21 (a)(3) of Chapter 30A of the General Laws of the Commonwealth, that the Marlborough City Council conduct an executive session for the purpose of discussing litigation strategy in a wireless special permit dispute involving two properties on Boston Post Road, as an open meeting may have a detrimental effect on the litigating position of the City of Marlborough and the City Council, and the chair hereby declares that an open meeting may have that effect.

It is further moved and stated that the City Council will re-convene in open session after the executive session; adopted.

Yea: 11 – Nay: 0

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope Robey & Oram

ORDERED: That the Communication from City Solicitor, Donald Rider re: GE Healthcare Bio-Sciences Corp.'s TIF, in proper legal form, **MOVE TO ITEM 19**; adopted.

ORDERED: That the Communication from Mark Donahue of Fletcher Tilton on behalf of Chick-Fil-A, Inc., re: to extend time limitations on application for Special Permit, to construct and operate an approximate 4,876 square foot single story building with drive-thru service restaurant at 230 Boston Post Road West, to December 17, 2014 until 5:00 PM, Order No. 14-1005761E, **APPROVED**; adopted.

ORDERED: That the Minutes, Planning Board, September 8, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Recreation Commission, May 14, 2014, **FILE**; adopted.

ORDERED: That the Minutes, School Council, June 4, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, August 26, 2014, **FILE**; adopted.

ORDERED: That the Minutes, Zoning Board of Appeals, August 26th, September 2nd, & September 16, 2014, **FILE**; adopted.

ORDERED: The Communication from Amica, on behalf of David Danehy, 508 Stow Road, **LEGAL DEPARTMENT**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- A. Robert Cormier, 127 Raymond Road, pothole or other road defect.
- B. Thomas Weber, 322 Church Street, other property damage and/or personal injury.

Reports of Committees:

Councilor Clancy reported the following out of the Legislative and Legal Affairs Committee:

Legislative and Legal Affairs Committee

October 1, 2014

Report of Committee

Council Order Nos. 14-1005945-1

14-1005945-2 14-1005945-3 14-1005945-4

Carisbrooke I and Carisbrooke II

Meeting Called to Order: 5:32 PM

Members Present: Councilors Clancy and Robey

Members Absent: Councilor Delano

City Officials: Cynthia Panagore Griffin and Evan Pilachowski

Order No. 14-1005945-1 Order of Acceptance of Layout and Eminent Domain Taking of Ways and Easements in the Carisbrooke I and Carisbrooke II Subdivisions.

The committee discussed the portion of the order which concerns the acceptance of streets, sidewalks curbs, utilities therein and thereunder, including water, sewer, drain lines, trees and appurtenant structures including the following: in Carisbrooke I, Harper Circle, Hawkins Lane, Prendiville Way, Stetson Drive, Woodcock Lane, Farrington Lane; and in Carisbrooke II, Belmore Place, Sheffield Terrace, Littlefield Lane, Flint Drive, Farrington Lane, Hamilton Circle, Haskell Lane, and Graham Path.

In addition, the committee discussed the portion of the order by which the City would take by Eminent Domain all of the aforementioned streets in Carisbrooke I and Carisbrooke II, and also permanent easements in both Carisbrooke I and Carisbrooke II, including without limitation existing drainage, flowage, headwall maintenance and utility easements, which are not limited to sewer easements, for the purposes of access, laying, operating, altering, constructing, maintaining, replacing, repairing, removing. and for changing the size of and replacing drains for the passage of storm and surface waters over and through said easements.

Recommendation of the Legislative and Legal Affairs Committee is to Accept Layout and Eminent Domain Order of Taking of Ways and Easements in the Carisbrooke I Subdivision and of Ways and Easements in the Carisbrooke II Subdivision.

Motion to approve by Councilor Robey seconded by the Chair

Motion Passed: 2-0

Order No. 14-1005945-2 Order that the City Council, by two-thirds vote, pursuant to Mass. Gen. Laws, c.40, s 15A, does hereby Transfer Care, Management and Control of the Streets and Easements in Carisbrooke I and Carisbrooke II to the Department of Public Works

Reports of Committees Cont'd:

Recommendation of the Legislative and Legal Affairs Committee is that the City Council, by two-thirds vote, transfers the care, management and control to the Department of Public Works of the City of Marlborough, for the purposes of accessing, laying, operating, altering, constructing, plowing, maintaining, replacing, repairing and other municipal purposes, all of the streets and easements within the Carisbrooke I and Carisbrooke II Subdivisions. This includes the utilities, structures, and appurtenances, sidewalks, curbs and other things identified in the Order of Acceptance of Layout and Eminent Domain Taking of Ways and Easements in the Carisbrooke I and Carisbrooke II Subdivisions.

Motion to approve by Councilor Robey seconded by the Chair

Motion Passed: 2-0

Order No. 14-1005945-3 Order, pursuant to Section 77C of Chapter 60 of the General Laws of Massachusetts, that the City accept title, by deeds in lieu of foreclosure, from Frederick Heim of 60 Carver Hill Road, Marlborough, Massachusetts and Paul Zarella of 115 Fox Run, Sudbury, Massachusetts, formerly doing business as Gristmill Construction, Inc., for three described parcels. This order would grant consideration and full forgiveness of the present outstanding tax liability on the conveyed properties.

Recommendation of the Legislative and Legal Affairs Committee is that the City, pursuant to Section 77C of Chapter 60 of the General Laws of Massachusetts, hereby accept title, by deed in lieu of foreclosure, from Frederick Heim of 60 Carver Hill Road, Marlborough, Middlesex County, MA, and Paul Zarella, of 115 Fox Run, Sudbury, Middlesex County, MA, formerly doing business as Gristmill Construction, Inc, certain parcels of land described as follows:

- 1) **That certain parcel known and numbered on the Assessors' Map of the City of Marlborough as Map 23, Parcel 95A, being approximately 0.0157254 acres, and located on Hanlon Drive; and**
- 2) **That certain parcel known and numbered on the Assessors' Map of the City of Marlborough as Map 36, Parcel 67, being approximately 1.034 acres, and located on the corner of Slocumb Lane and Stetson Drive; and**
- 3) **That certain parcel known and numbered on the Assessors' Map of the City of Marlborough as Map 36, Parcel 84, being approximately 18.4 acres, and located off of Woodcock Lane.**

Motion to approve by Councilor Robey seconded by the Chair

Motion Passed: 2-0

Reports of Committees Cont'd:

Order No. 14-1005945-4 Order that the City Council, by two-thirds vote, Transfer Care, Management and Control to the Conservation Commission.

Councilor Clancy read a Disclosure of Appearance of Conflict of Interest, stating that there is no financial gain to himself, as Chairman of the Conservation Commission, if the City Council was to approve the transfer of care, management and control of certain parcels of open space to the Conservation Commission.

This order would transfer to the Conservation Commission of the City of Marlborough for conservation purposes, including increasing open space, preserving vistas, providing wildlife habitat and enabling future passive recreational opportunities, the Care Management and Control of two parcels described below.

Recommendation of the Legislative and Legal Affairs Committee is to Transfer Care, Management and Control to the Conservation Commission of the following two parcels [2/3 vote]:

- 1) **Map 36, Parcel 67 being approximately 1.034 acres and located on the corner of Slocumb Lane and Stetson Drive.**
- 2) **Map 36, Parcel 84 being approximately 18.4 acres and located off of Woodcock Lane.**
- 3) **The transfer of Map 23, Parcel 95A being approximately 0.0157254 acres and located on Hanlon Drive was withdrawn from consideration.**

Motion by Councilor Robey seconded by the Chair

Motion Passed: 2-0

ORDERED: BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, ACTING UPON A RECOMMENDATION OF THE MAYOR, THAT THE CODE OF THE CITY OF MARLBOROUGH (HEREINAFTER, THE "CITY CODE"), AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- A. Except where the words "Building Inspector" are preceded by the word "Assistant", the City Code is hereby amended in its entirety by deleting the words "Building Inspector" and "Inspector of Buildings" wherever they appear throughout the City Code, and inserting in place thereof the words "Building Commissioner."
- B. Section 7-75, on this day entitled "Appointment of Assistant Building Inspector", is hereby amended by deleting the words "Assistant Building Inspector" from said title and inserting in place thereof the words "Local Inspectors."
- C. Section 7-75, on this day entitled "Appointment of Assistant Building Inspector", is hereby further amended by deleting the following words:

The Mayor shall appoint two full-time Assistant Building Inspectors, who shall meet the requirements and qualifications set forth for local building inspectors in Section 107.4 of the Commonwealth's Building Code

and inserting in place thereof the following words:

The Mayor shall employ Local Inspectors, as necessary, to support the mission and duties of the Building Department. Local Inspectors shall be under the direction of the Building Commissioner. Local Inspectors shall meet the requirements and qualifications established by the Massachusetts Board of Building Regulations and Standards and as defined by Section 3 of Chapter 143, of Massachusetts General Laws.

- D. Section 7-75, Appointment of Local Inspectors, is further amended by deleting the numbers "7-75" and inserting in their place the numbers "7-76," and Section 7-76, Duties of the Building Commissioner, is further amended by deleting the numbers "7-76" and inserting in their place the numbers "7-75." In harmony with the foregoing amendments, by this amendment Section 7-75 shall henceforth be "Duties of the Building Commissioner", and Section 7-76 shall henceforth be "Appointment of Local Inspectors."

Approved

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. No objection to passage in one evening.

ORDERED: That the attached quitclaim deed, granted by Indian Development Corp. to the City of Marlborough, of two (2) parcels of land in Marlborough, located off DiCenzo Boulevard and more fully described as Lot 2A and Parcel B on "Exhibit A" to the said deed; together with an approximately 10' wide pedestrian easement, appurtenant to Lot 2A, for walking and pedestrian access purposes to and from land of the Commonwealth of Massachusetts now known as "Callahan State Park," as more fully described on the said "Exhibit A;" with said parcels to be managed and controlled by and through the Marlborough Conservation Commission for the purposes of promotion and development of natural resources, open space preservation, passive recreation, and conservation, pursuant to the provisions of Massachusetts General Laws Chapter 40, Section 8C, **APPROVED**; adopted.

Yea: 11 – Nay: 0

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope Robey & Oram

ORDERED: That the DPW transfer request in the amount of \$34,000.000 which moves funds from Parks and Fields Capital to Capital Outlay-DPW Projects to fund preliminary master planning and conceptual design of future turf field projects, **APPROVED**; adopted.

FROM:

Acct. # 27000099-42445

\$34,000.00

Parks & Fields Capital

TO:

Acct. # 19300006-58514

\$34,000.00

Capital Outlay-DPW Projects

Councilor Elder recused.

ORDERED: That the Comptroller/Treasurer is authorized to assess a \$15.00 fee for each demand issued by the Collector, **APPROVED**; adopted.

CARRIES UNANIMOUSLY

ORDERED: That the GE Healthcare Economic Development Incentive Program (EDIP) Application Creating a North American Headquarters consisting of the following 3 documents, attached hereto, **APPROVED**; adopted.

1. The TIF Agreement;
2. The Economic Development Incentive Program (EDIP) Local Incentive Only Application
3. City Council Resolution

Yea: 11 – Nay: 0

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope Robey & Oram

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 8:38 PM.